IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10317 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AGRICULTURE ENGINEER

Versus

DEVSIBACHUBAHI

Appearance:

1. Special Civil Application No. 10317 of 2001
MR RV DESAI, AGP for Petitioner No. 1
RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 10/12/2001

ORAL JUDGEMENT

In this petition under Articles 226 and 227 of the Constitution, Agricultural Engineer of the State Government at Junagadh has challenged the order dated

19-12-2000 passed by the Labour Court, Junagadh in Recovery Application No.10 of 1995 under section 33-C(1) of the Industrial Disputes Act, 1947. By the said order, the Labour Court held that the respondent herein Devshi Bachubhai (applicant before the Labour Court) was entitled to recover Rs.15,218/- from the present petitioner on the basis of the award dated 20-10-1994 passed by the Labour Court in Reference (LCJ) No. 1733 of 1990.

2. Mr RV Desai learned AGP for the petitioner Agricultural Engineer points out that the said amount was already paid by the petitioner to the respondent on 8-8-2000 as per the voucher dated 8-8-2000, a copy whereof is produced at Annexure B to the petition.

3. Rule was issued on 2-11-2001 and was served on the respondent on 20-11-2001 still none appears for the respondent. It would therefore be safe to proceed on the basis that the statement made by the petitioner in paragraph 5 of the petition that the amount of Rs.15,861/- has been paid by the petitioner to the respondent - workman is correct. It appears that the fact of the aforesaid payment was not brought to the notice of the Labour Court on account of usual lethargy on the part of the bureaucracy in such matters. At the same time it also appears that it was the duty of the respondent herein to bring it to the notice of the Labour Court that the amount was received by him. Since this was not done by the respondent - workman, the Labour Court was not justified in awarding special costs of Rs.3000/- in favour of the respondent - workman.

4. In view of the above discussion, the petition is allowed. The impugned order dated 19-12-2000 passed by the Labour Court, Junagadh in Recovery Application No.10 of 1995 is hereby quashed and set aside, and the said recovery application is dismissed as infructuous.

Rule is made absolute with no order as to costs.

(M.S. Shah,J)

zgs/-